DETAILED ACTION

1. Claims 1-10 were presented for examination. Applicant filed an amendment on May 10, 2008. Claims 1, 3-5, and 8-10 were amended. The examiner establishes new grounds of rejection for claims 1-7, 9, and 10. Since the new grounds of rejection were necessitated by applicant's amendment of the claim(s), the rejection of claims 1-10 a final rejection of the claim(s).

Response to Arguments

2. Applicant argued that claims 1-9 are patentable under 35 USC 101. Examiner respectfully disagrees. Claims 1-9 are directed to software. However, claims 1-9 do not positively recite that said software is tangibly embodied on a computer-readable medium that causes a computer, when executed, to perform specific tasks. Therefore, claims 1-9 are software per se and considered non-statutory subject matter. Examiner finds Applicant's argument non-persuasive.

3. Applicant argued that Volftsun does not teach or suggest a protocol handler that formats usage data which comprises transaction data for a plurality of content delivery types which has previously taken place. Examiner respectfully disagrees. The distinction made by the applicant relates to the data handled by the protocol handler, and not the claimed protocol handler. The data handled by the protocol handler is nonfunctional descriptive material that lacks a functional interrelationship with the claimed invention. Therefore, it is not given patentable weight. Examiner finds Applicant's argument non-persuasive.

4. Applicant argued that the claimed invention is patentable over the prior art because Volftsun does not teach or suggest converting a plurality of types of data. Examiner respectfully disagrees. Volftsun teaches a universal protocol converter configured to handle the conversion of a plurality of data types (Volftsun: col 5, line 45 - col 6, line 30). Therefore, Examiner finds Applicant's argument non-persuasive.

5. Applicant argued that Flores does not teach scripts that are used in a telecommunications environment, or that they are created using a script designer which includes specializations for such an environment, including a scripting area configured to display network element events

using a tree model, and an event viewer window operable to display network element definitions. Examiner respectfully disagrees. There are no limitations in claim 1 referring to a script used in a telecommunications environment. Furthermore, Flores teaches using a script designer employing a scripting area configured to display network element events using a mapping system, which is analogous to a tree model (Flores: col 7, line45 - col 8, line 30). Flores also teach a window to display network definitions (Flores: col 7, line 45 – col 8, line50). Therefore, Examiner finds Applicant's argument non-persuasive.

6. In regard to claim 1, Applicant's arguments related to Bowman-Amuah have been fully considered but are moot in view of the new ground(s) of rejection.

7. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

8. Applicant argued that claims 2-7 should be patentable based on the patentability of claim 1. Examiner respectfully disagrees. For the reasons stated above, claim 1 is not patentable in its current form. Therefore, Examiner finds Applicant's argument non-persuasive.

9. Applicant argued that Flores does not teach or suggest graphical representations for modifiable and non-modifiable script elements that differ based on color. Examiner agrees. However, Flores teaches distinguishing between repeating and non-repeating workflow icons in a business process map by using a shadow or other such graphical representation (Flores: col 9, lines 30-50), which suggests using color to distinguish between repeating and non-repeating steps. In light of the ordinary skill in the art disclosed in Flores, it would have been obvious at the time the invention was made to modify Flores to achieve the limitation of icons for modifiable and non-modifiable script elements that are graphically displayed and distinguished by color because one

having ordinary skill in the art could have done so with a reasonable expectation of success and predictable results. Therefore, Examiner finds Applicant's argument non-persuasive.

10. In light of Applicant's arguments, Examiner withdraws the rejection of claim 4 under 35 USC 112 First paragraph.

11. In regard to claim 8, Applicant's argued that the prior art does not teach or suggest a script interface configured according to a plurality of scripts, or an interface that could perform data handling. Examiner respectfully disagrees. Fables suggests an interface that performs data handling and is configured according to a plurality of scripts (See at least Fables: col 3, lines 1-30). Therefore, Examiner finds Applicant's argument non-persuasive.

12. Applicant argued that claim 9 is patentable based on the patentability of claim 8. Applicant's argument has been fully considered but is moot in view of the new ground(s) or rejection.

13. In light of Applicant's arguments, Examiner withdraws the rejection of claim 10 under 35 USC 101.

14. In regard to claim 10, Applicant's argued that the prior art does not teach or suggest remotely presenting a graphical user interface for editing the plurality of scripts that control the receiving, protocol handling, assembling, correlating, and distributing the usage data. Examiner respectfully disagrees. Flores teaches a graphical user interface used to edit and design scripts (Flores: col 31, line 60 – col 32, line30). Therefore, Examiner finds Applicant's argument non-persuasive.

Claim Rejections - 35 USC § 101

15. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

16. Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-9 are directed to a computer program per se or data structure of a computer or software and therefore not statutory under 35 U.S. C. 101. This is exemplified in

In re Warmerdam 31 USPQ2d 1754 where the rejection of a claim to a disembodied data structure was affirmed. Thus a claim to a data structure, per se, or other functional descriptive material, including computer programs, per se, is not patent eligible subject matter.

Functional descriptive material claimed in combination with an appropriate computer readable medium to enable the functionality to be realized is patent eligible subject matter if it is capable of producing a useful, concrete and tangible result when used in the computer system. Compare Warmerdam to In re Lowry 32 USPQ2d 1031 where a memory with a data structure that increased computing efficiency was patentable.

The computer readable medium loaded with a computer program and in association with a computer provides the functional descriptive material in usable form to permit the functionality to be realized with the computer. A program product which does not explicitly include such a medium, a program per se, a signal or other type of transmission media that fails to include the hardware necessary to realize the functionality (e.g., a transmitter or a receiver), and a piece of paper with the functional descriptive material written on it are all examples of media which are not believed to enable the functionality to be realized with the computer. "[I]nstructions for creating…" is considered as a source code or software per se.

The Examiner notes that the claims are directed to a system where the limitations recited are all directed to software. Claims directed to software per se are considered to be non statutory subject matter. For system claims to be deemed statutory, the body of the claims must include recitations to structural elements or components (e.g. computer, data processor, server, etc.).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole

would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

18. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flores (5,734,837) and in view of Volftsun (6,151,390), and further in view of Fables (US 6,282,697 B1).

Claim 1: Flores discloses the following limitation(s):

- *a mediation script designer configured to graphically and interactively present a user with an environment for modifying the plurality of scripts wherein said environment comprises a scripting area configured to display network element events using a tree model, and an event viewer window operable to display network element definitions*. (See at least Flores: col 13, line 60 – col 14, line 15; col 14, lines 62-67)

Flores does not disclose the remaining limitation(s). However, Volftsun discloses the following:

- *a protocol handler configured to receive usage data from a plurality of network elements, wherein said plurality of network elements comprises a plurality of telecommunication devices, and to format the usage data into a standard format, wherein said usage data comprises transaction*

data for a plurality of types of content delivery which has previously taken place over a network; (Volftsun: abstract)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Flores with the technique of Volftsun because the modification would provide the benefit of a method of handling data sources using incompatible protocols (See at least Volftsun: col 2, lines 35-50). Volftsun does not disclose the remaining limitation(s). However, Fables discloses the following:

- *a data handler configured to parse, format and assemble the standard format usage data in accordance with a plurality of scripts wherein formatting and assembling the standard format usage data comprises converting a plurality of validated call detail records into a plurality of intermediate records and aggregating said plurality of intermediate records into a plurality of assembled records;* (See at least Fables: col 3, lines 15-30. Fables discloses a method handler configured to process data based on predefined instructions and generate an output)

It would have been obvious to one of ordinary skill in the art to combine the elements cited in Flores/Volftsun with the data handlers as taught by Fables because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Claim 2: Flores/Volftsun/Fables discloses the limitation(s) as shown in the rejection of claim 1. Flores further discloses the following:

- *the mediation script designer is further configured to display a script in a graphical depiction.* (See at least Flores: Abstract; col 1, lines 1-23)

Claim 3: Flores/Volftsun/Fables discloses the limitation(s) as shown in the rejection of claim 2. Flores further discloses the following:

- *the mediation script designer is further configured to display the script as a flow diagram*. (Flores: Abstract; col 1, lines 1-23)

Claim 4: Flores/Volftsun/Fables discloses the limitation(s) as shown in the rejection of claim 2. Flores further discloses the following:

- *the script contains a modifiable element and a nonmodifiable element,* (Flores: col 15, line 10- col 16, line 10)

In regard to the following limitation:

- *the mediation script designer is further configured to display the modifiable element and the nonmodifiable element as icons, and wherein the icon for the modifiable element is displayed with a graphical annotation that differs from the nonmodifiable element, wherein the graphical annotation displayed with the icon for the modifiable element comprises a background color which differs from a background color displayed with the icon displayed with the nonmodifiable element*.

Flores does not explicitly teach the limitation above. However, Flores teaches distinguishing between repeating and non-repeating workflow icons in a business process map by using a shadow or other such graphical representation (Flores: col 9, lines 30-50), which suggests using color to distinguish between repeating and non-repeating steps. In light of the ordinary skill in the art disclosed in Flores for displaying workflow icons, it would have been obvious at the time the invention was made to modify Flores to achieve the limitation of icons for modifiable and non-modifiable script elements that are graphically displayed and distinguished by color because one having ordinary skill in the art could have done so with a reasonable expectation of success and predictable results.

Claim 5: Flores/Volftsun/Fables discloses the limitation(s) as shown in the rejection of claim 2. Flores further discloses the following:

- *the mediation script designer is further configured to selectively display the script in a graphical depiction and as a text depiction.* (See at least Flores: col 9 lines 30-40; col 6, lines 40-45; col 13, lines 40-67; col 26, lines 55-67)

Claim 6: Flores/Volftsun/Fables discloses the limitation(s) as shown in the rejection of claim 1. Flores further discloses the following:

- *the mediation script designer is further configured to display a script editing window and a resource listing of recorded scripts.* (See at least Flores: col 31, lines 15-35)

Claim 7: Flores/Volftsun/Fables discloses the limitation(s) as shown in the rejection of claim 6. Flores further discloses the following:

- *the mediation script designer is further configured to respond to a drag and drop operation between a recorded script in the resource listing and the script editing window.* (See at least Flores: col 7, lines 60-67; col 31, lines 15-40)

Claim 8: Flores discloses the following limitation(s):

- *a script designer responsive to a user* (See at least Flores: col 6, lines 10-20; col 4, lines 45-65)
- *the script designer comprising a presentation layer providing a platform independent graphical user interface that is coupled to an integrated testing environment framework for communicating with the mediation manager.* (See at least Flores: col 21, lines 40-55)

Flores does not disclose the remaining limitation(s). However, Volftsun discloses the following:

- *to perform protocol handling of received usage data in the database from a plurality of network elements, to format the usage data into a standard format, and* (See at least Volftsun: Abstract)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Flores with the technique of Volftsun because the modification would provide the benefit of a method of handling data sources using incompatible protocols (See at least Volftsun: col 2, lines 35-50). Volftsun does not disclose the remaining limitation(s). However, Fables discloses the following:

- *a mediation manager script interface in electronic communication with the database and operably configured in accordance with a plurality of scripts* (See at least Fables: col 3, lines 1-30)
- *a database containing the billing-related usage data;* (See at least Fables: col 12, lines 60-67)
- *and in client communication with the mediation manager script interface and the database;* (Fables: col 2, lines 35-65)
- *to perform data handling to parse, format and assemble the standard format usage data for distribution;* (See at least Fables: col 3, lines 15-30. Fables discloses a method handler configured to process data based on predefined instructions and generate an output)

It would have been obvious to one of ordinary skill in the art to combine the elements cited in Flores/Volftsun with the data handlers as taught by Fables because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Claim 9: Flores/Volftsun/Fables discloses the limitation(s) as shown in the rejection of claim 8. Flores further discloses the following:

- *the mediation manager is further configured to ~~access~~ access a script ~~verions~~ versions control repository, the script designer is further configured ~~furhter configures~~ to respond to a user to interact with the script versions control repository.* (Fables: col 7, lines 10-40)

Claim 10: Flores discloses the following limitation(s):

- *~~a means for~~ remotely presenting a graphical user interface for editing a ~~pluralit~~ the plurality of scripts that control the ~~means for~~ receiving, protocol handling, assembling, correlating, and distributing the usage data.* (Flores: col 31, line 60 – col 32, line30)

Flores does not disclose the remaining limitation(s). However, Volftsun discloses the following:

- *~~a means for~~ receiving and protocol handling the usage data from the plurality of ~~collecton~~ collection points in accordance with at least one script from a plurality of scripts;* (See at least Volftsun: Abstract)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Flores with the technique of Volftsun because the modification would provide the benefit of a method of handling data sources using incompatible protocols (See at least Volftsun: col 2, lines 35-50). Volftsun does not disclose the remaining limitation(s). However, Fables discloses the following:

- *~~a means for~~ assembling, correlating and ~~sitributing~~ distributing the usage data to a plurality of billing system outcollects in accordance with at least one script from the plurality of scripts;* (See at least Fables: col 3, lines 15-30. Fables discloses a method handler configured to process data based on predefined instructions and generate an output)

It would have been obvious to one of ordinary skill in the art to combine the elements cited in Flores/Volftsun with the data handlers as taught by Fables

because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Conclusion

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event of a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Preston, whose telephone number is (571) 270-3918. The examiner can normally be reached on Monday to Friday from 9:00 AM to 5:00 PM.

/John O Preston/

Examiner, Art Unit 3691

September 11, 2009

/Alexander Kalinowski/

Supervisory Patent Examiner, Art Unit 3691